

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,) Case No. CV 10-02161 DDP (FMOx)
12 Plaintiff,)
13 v.) ORDER DENYING DEFENDANT'S EX
14 THE JANKOVICH COMPANY and) PARTE APPLICATION FOR AN ORDER
LLOYD'S SYNDICATE 1607, in) EXTENDING DISCOVERY CUTOFF
15 personam,)
16 Defendant.) [Motion filed on 5/20/11]
17 _____)

18 Presently before the court is defendant The Jankovich Company
19 ("Jankovich")'s Ex Part Application for an Order Extending
20 Discovery Cutoff (Dkt. No. 80). Having considered the papers
21 submitted by the parties, the court DENIES the application.

22 The discovery period in this case closed on December 31, 2010.
23 Jankovich filed its ex parte application almost six months later,
24 on May 20, 2011, arguing that an extension of discovery dates is
25 necessary to allow Jankovich to conduct two depositions in
preparation for an August 2, 2011 trial. (Application at 3-4).

27 A party requesting ex part relief must show (1) that regular
28 motion procedures would irreparably prejudice the applicant and (2)

1 that the applicant "is without fault in creating the crisis that
2 requires ex parte relief." Mission Power Eng'g Co. v. Cont'l Cas.
3 Co., 883 F.Supp. 488, 492(C.D. Cal. 1995). The moving party must
4 demonstrate that "it used the entire discovery period efficiently
5 and could not have, with due diligence, sought to obtain the
6 discovery earlier in the discovery period." Id. at 493.

7 Here, Jankovich knew the identities of the individuals it
8 seeks to depose well in advance of the discovery deadline.
9 Jankovich appears to have relied on an agreement with Plaintiff to
10 conduct discovery beyond the court-imposed deadline of December 31,
11 2010. While the court notes that Plaintiff does not dispute the
12 existence of such an agreement, any such agreement was improper.
13 Even accepting Jankovich's assertions as true, Jankovich knew that
14 Plaintiff would not produce witnesses in accordance with the
15 informal agreement as early as February, 2011, and no later than
16 April, 2011, over one month before Jankovich filed the instant
17 application. (App. at 3). The court therefore concludes that the
18 current crisis is, at least in part, of Jankovich's making.

19 Accordingly, Jankovich's Ex Parte Application for an Order
20 Extending Discovery Cut-Off is DENIED.

21
22 IT IS SO ORDERED.

23
24 Dated: June 15, 2011


25 DEAN D. PREGERSON
26 United States District Judge
27
28